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9 **BEFORE THE**
RESPIRATORY CARE BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 RANDALL J. NAJERA
13 5007 W. Pinedale Avenue
Fresno CA 93722

14 RCP License No.18352

15 Respondent.
16

RCB Case No. R-2002

**STIPULATED SETTLEMENT FOR
PUBLIC REPRIMAND AND
DISCIPLINARY ORDER**

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18 In the interest of a prompt and speedy settlement of this matter, consistent with the
19 public interest and the responsibility of the Respiratory Care Board, Department of Consumer
20 Affairs, State of California ("Board"), the parties hereby agree to the following Stipulated
21 Settlement For Public Reprimand and Disciplinary Order which will be submitted to the Board for
22 approval and adoption as the final disposition of the Accusation in Case No. R-2002.

23 PARTIES

24 1. At the time of the filing of the Accusation in Case No. R-2002,
25 complainant Stephanie Nunez was the Executive Officer of the Board and brought this action
26 solely in her official capacity. Complainant is represented in this matter by Bill Lockyer, Attorney
27 General of the State of California, by Catherine Santillan, Senior Legal Analyst.

28 2. Respondent Randall J. Najera, ("respondent"), is aware of his right to be

1 represented by an attorney in this matter, but has elected to represent himself.

2 3. At all times relevant herein, respondent has been licensed by the Board
3 under Respiratory Care Practitioner License No. 18352.

4 JURISDICTION

5 4. Accusation No. R-2002 ("Accusation") was filed before the Board and is
6 currently pending against respondent. The Accusation, together with all other statutorily required
7 documents, was duly served on the respondent in accordance with the California Administrative
8 Procedure Act and respondent has filed a Notice of Defense. A copy of said Accusation is
9 attached as **Exhibit A** and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read and fully understands the nature of the
12 charges alleged in the Accusation and the effects of this Stipulated Settlement For Public
13 Reprimand and Disciplinary Order ("Stipulation").

14 6. Respondent understands that the charges and allegations in the Accusation,
15 if proven at a hearing, constitute cause for imposing discipline upon Respiratory Care Practitioner
16 License No. 18352. Respondent is fully aware of his legal rights and that, but for this Stipulation,
17 he would be entitled: 1) to a hearing on the charges and allegations in the Accusation; 2) to be
18 represented by counsel, at his own expense, in all proceedings in this matter; 3) to confront and
19 cross-examine the witnesses against him; 4) to present evidence on his own behalf and to the
20 issuance of subpoenas to compel the attendance of witnesses and the production of documents; 5)
21 to reconsideration and appeal of an adverse decision; and 6) all other rights accorded pursuant to
22 the California Administrative Procedure Act and other applicable laws.

23 7. With these rights in mind, respondent freely, voluntarily, knowingly, and
24 intelligently waives and gives up each and every right set forth above.

25 ADMISSIONS

26 8. Respondent admits the charges and allegations in Accusation No. R-2002
27 constitute cause for imposing discipline upon his Respiratory Care Practitioner License.

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2 9. For the purpose of resolving the Accusation without the expense and
3 uncertainty of further proceedings, Respondent gives up his right to contest those charges.

4 10. Respondent agrees that his Respiratory Care Practitioner License is subject
5 to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
6 Order below.

7 CONTINGENCY

8 11. This Stipulation shall be subject to the approval of the Board. Respondent
9 understands and agrees that Board staff and counsel for complainant may communicate directly
10 with the Board regarding this Stipulation, without notice to or participation by respondent or his
11 representative. If the Board fails to adopt this Stipulation as its Disciplinary Order, the
12 Stipulation shall be of no force or effect, it shall be inadmissible in any legal action between the
13 parties, and the Board shall not be disqualified from further action in this matter by virtue of its
14 consideration of this Stipulation.

15 12. In consideration of the foregoing admissions and stipulations, the parties
16 agree that the Board shall, without further notice or formal proceeding, issue and enter the
17 following Disciplinary Order:

18 DISCIPLINARY ORDER

19 IT IS HEREBY ORDERED that Randall J. Najera, Respiratory Care
20 Practitioner License No. 18352, is hereby publicly reprimanded by the Respiratory Care Board.
21 This Stipulated Settlement For Public Reprimand and Disciplinary Order shall constitute the
22 formal public reprimand; in addition, as part of this Stipulation, respondent agrees as follows:

- 23 A. No further violation of the law will occur; and
24 B. Respondent is hereby ordered to reimburse the Board the amount
25 of \$850.00 for its investigative and prosecution costs. The amount shall be paid in full within one
26 year i.e. twelve (12) months of the effective date of this Disciplinary Order, unless the Board
27 agrees in writing to payment by a different installment plan because of financial hardship. The
28 filing of bankruptcy by the respondent shall not relieve the respondent of the responsibility to

1 reimburse the Board for its investigative and prosecution costs.

2 C. Failure to timely reimburse the Board for its investigative and
3 prosecution costs in the amount set forth above shall constitute unprofessional conduct pursuant
4 to Business and Professions Code section 3755 for purposes of further disciplinary proceedings.
5 In addition, the Board may withhold renewal of respondent's Respiratory Care Practitioner
6 License No.18352.

7 ACCEPTANCE

8 I have read the above Stipulated Settlement For Public Reprimand and Disciplinary
9 Order. I fully understand the terms and conditions and other matters contained therein. I
10 understand the effect this Stipulation will have on my Respiratory Care Practitioner License
11 No.18352, and agree to be bound thereby. I enter this Stipulation freely, voluntarily, knowingly,
12 intelligently and voluntarily.

13 DATED: December 23, 2005

14
15 Original signed by:
16 RANDALL J. NAJERA
Respondent

17
18 ENDORSEMENT

19 The foregoing Stipulated Settlement For Public Reprimand and Disciplinary Order
20 is hereby respectfully submitted for consideration by the Respiratory Care Board, Department of
21 Consumer Affairs, State of California.

22 DATED: January 3, 2006

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24 BILL LOCKYER, Attorney General
of the State of California

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26 Original signed by:
27 CATHERINE E. SANTILLAN
Senior Legal Analyst

28 Legal Representative for Complainant

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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2002

RANDALL J. NAJERA
5007 W. Pinedale Avenue
Fresno CA 93722

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board of California, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall be effective on February 27, 2006.

It is so ORDERED February 16, 2006.

Original signed by:
LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA